

ADAMS, J.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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|------------------------------------|---|---------------------|
| NORTH CAROLINA MUTUAL LIFE |) | CASE NO. 5:05MC073 |
| INSURANCE COMPANY, |) | |
| |) | |
| Plaintiff, |) | JUDGE JOHN R. ADAMS |
| |) | |
| v. |) | <u>ORDER</u> |
| |) | [RESOLVING DOC. 1] |
| McKINLEY FINANCIAL SERVICES, INC., |) | |
| et al., |) | |
| |) | |
| Defendant. |) | |

A motion to quash subpoenas issued to Benefit Services, Inc., Robert Frazier, Jr., John Kennedy, and Dena Witmer (Doc. 1) is pending before this Court. The underlying lawsuit is pending in the United States District Court for the Middle District of North Carolina, being Case No. 1:03-CV-00911. After notice to the parties, the Court held a telephonic hearing on the motion on September 6, 2005. The Court has reviewed the motion and has considered the oral arguments of counsel.

After considering all the matters presented to it, the Court will deny the motion. Pursuant to Opinion 2002-4 of the Ohio Board of Commissioners on Grievances and Discipline, “[a]n out-of-state attorney may take a deposition in Ohio if the deposition is incidental to a case pending . . . in a court outside Ohio in a state in which the attorney is admitted to practice law and if the attorney is permitted to do so by the other state.” In *In re Desilets*, 291 F.3d 925 (6th Cir. 2002), the Court of Appeals for the Sixth Circuit found that an attorney was permitted to practice bankruptcy law before the

United States District Court for the Western District of Michigan even though he was not a member of the Michigan state bar. The Court concludes that there is no language in Local Rule 83.5 which explicitly or implicitly requires that an out-of state attorney seek admission to the bar of this Court before taking a deposition in this district for a case pending in another federal court. Accordingly,

The motion to quash (Doc. 1) is DENIED.

IT IS SO ORDERED.

September 8, 2005
Date

/s/ John R. Adams
John R. Adams
U.S. District Judge